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Federal Communications Commission
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**Re: MB Docket No. 03-36, Amendment of Section 73.203(b), Table of Allotments
FM Broadcast Stations, Petition to add Channel 293A to Woodbine, Iowa.**

1. Comments of WJAG, Inc.

WJAG, Inc., licensee of KEXL, Norfolk, Nebraska, filed an objection on March 31, 2003, to the proceeding in MB Docket No. 03-36, which proposes to add FM broadcast channel 293A to Woodbine, Iowa. WJAG asserts that it wasn't notified by certified mail of the proposal to downgrade KEXL's licensed frequency from Channel 294C to 294C0. As a result, WJAG wishes to dismiss the petition to add Channel 293A at Woodbine, Iowa, citing the FCC's failure to follow its own rules, thus being denied the timely 30 day period in which it could have expressed its intention to file an application for minimum class C facilities.

In this objection, WJAG has indicated that it may file a statement of intention to file a construction permit to upgrade to minimum Class C facilities for KEXL, in a new 30 day grace period as given under 73.3573, note 4 of the FCC rules. HCR concurs with WJAG's argument that proper mailing procedures were not followed by the Commission.

It is evident to Harrison County Radio (HCR) that WJAG, Inc. wishes to delay or prevent the addition of Channel 293A to Woodbine, Iowa, as provided under the FCC's current rules. Harrison County had hoped to find an alternate channel for Woodbine when it entered into this proceeding well over a year ago. Obviously, that wasn't the case. Thus, HCR's proposal under the FCC's current rules regarding Class C vs. Class C0 status, has been completely at the mercy of WJAG, Inc.

Given the expected opposition by WJAG to this proposal, HCR expects that it will be impossible to add Channel 293A to Woodbine, Iowa if, in the future, KEXL is granted a construction permit and builds a new tower of at least 451 meters HAAT. Even if KEXL "tolls the clock" with a construction permit that it ultimately never builds out after the specified three year period, such a delay, coupled with the current procedural delays that prevents the FCC from issuing a window for FM station applications, creates a block of time that's likely to be in excess of four or five years.

Such a delay is unacceptable to Harrison County Radio. It cannot say that there would be continuing interest in applying for a license and building a station at Woodbine, Iowa four or five years in the future, if in fact the possibility of adding Channel 293A to Woodbine would still exist.

2. Withdrawal of petition by Harrison County Radio

Given the uncertainty, *Harrison County Radio now withdraws its petition to add Channel 293A to Woodbine, Iowa.* HCR states that it has received no compensation by any other interested party to this proceeding in exchange for withdrawing this petition. Indeed, the withdrawal of this petition is being made under protest. The procedure for reclassifying grandfathered Class C stations with sub-minimum Class C facilities to Class C0 has a chilling effect on establishing new service.

HCR sympathizes in part with such stations as KEXL, which opposed the establishment of the Class C0 classification. It wishes to provide service to its listeners beyond its 60 dB service contour without encroachment from new or upgraded stations that may cause interference outside of the protected 60 dB service contour of KEXL. To provide a protected, interference free service in KEXL's current fringe area outside of its 60 dB contour would mean a substantial investment, at least in the hundreds of thousands of dollars, if not in excess of a million dollars or more.

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On the other hand, there are the interests of areas such as Harrison County, Iowa that should be considered. There are currently no radio stations licensed to any community within Harrison County. Most, if not all of the radio stations that are received in Harrison County are licensed to communities in Nebraska, with the vast majority of those focusing on the Omaha-Council Bluffs metropolitan area. Channel 293A at Woodbine, Iowa would have been a true Harrison County radio station. Because of its site restriction and required protection to adjacent channel KIBZ, Channel 292C1, Lincoln, Nebraska, *Channel 293A at Woodbine would never provide any type of usable signal to the Omaha-Council Bluffs metropolitan area.*

3. Proposed exemption of sub-minimum Class C facilities to reclassification process under 73.3573, note 4

The FCC should consider, in the future, a compromise proposal to establish an exemption to the Class C0 reclassification process. This proposal would allow new service to be established when there is a conflict with a Class C station with sub-minimum facilities under the following conditions:

1. A proposal to add a new channel to the Table of Assignments must specify a community of license that has no existing aural service.
2. A proposal to add a new channel to the Table of Assignments must further specify a community of license that is at least 15 air miles from any other community with existing radio service in the AM or FM bands, or any other community that is represented in the FM Table of Assignments with a vacant channel.
3. If the first two conditions are met, the proposed new channel must protect grandfathered sub-minimum Class C stations to the 60 dB service contour represented by a theoretical antenna height of 525 meters at the existing transmitter site of the sub-minimum Class C station in question.
4. Sub-minimum Class C stations that would be affected by such actions as described above would continue to enjoy full Class C status, and the protection such status would otherwise afford, and would not be subject to the reclassification provisions of 73.3573, note 4.
5. Proposals to add new channels to the Table of Assignments that don't meet the tests spelled out in points 1 and 2 above would continue to follow the reclassification procedures in 73.3573, note 4 in cases where they conflict with sub-minimum Class C facilities.

This exemption to 73.3573, note 4 would serve as a compromise between the competing interests of sub-minimum Class C stations and under-served areas that wish to establish a first aural service. Sub-minimum Class C stations that become technically short-spaced to new stations that would be authorized under the provisions above, and that wish in the future to upgrade their antenna height between 451 and 600 meters could do so at their existing transmitter site using the provisions of 73.215, or they could move to a fully spaced site. If such an exemption were to be established, Harrison County Radio would consider filing a new petition to add Channel 293A to Woodbine, Iowa. In the meantime, there are too many obstacles and potential delays under the current procedures to continue the present petition to add aural service to Woodbine.

Sincerely,



Russell G. Johnson
Harrison County Radio